Area	Tension Point	Statutory (S) or Regulatory (R) Implications
1. Business model concerns.		
	a. Difference in business plans between government and industry.	Regulatory
	b. Commercial return on investment over years versus depot and competition requirements.	Regulatory
	c. For-profit model versus non-profit business model conflict.	Regulatory
	d. Government as customer versus Government as competitor (depot; labs).	Regulatory
2. Acquisition planning and requirements.		
	a. GPR: Scope, sunset, one size does not fit all paths to competition.	Regulatory
	b. Depot-level maintenance capability/requirements.	Regulatory
	c. Sustainment is more than maintenance	Regulatory
	d. What is necessary to comply with 2320(e)(3)'s requirement to address TD (and CS) needs in view of potential changes to sustainment strategy.	Regulatory
	e. Access for limited purposes (cyber review; airworthiness; approvals) versus delivery as a CDRL under DFARS.	Regulatory
	f. Software maintenance/sustainment requirements.	Regulatory
	g. CDRL requirements for fundamental research programs versus CDRL needs for production/sustainment.	Regulatory
	i. Loss of (sustainment) support	
3. Source selection concerns.		
	a. Data rights as an evaluation factor.	Statutory/Regulatory
	b. IP valuation versus evaluation factors and priced CLINs.	Regulatory
	c. Bid protest versus need to evaluate legality/business case for IP terms in proposals.	Regulatory
	d. Need for Government flexibility to use existing tools versus need for legal review of H clauses and evaluation criterion (versus 10 U.S.C. 2320; versus CICA).	Regulatory
4. Balancing the interests of the parties.		
	a. Funding as proxy.	
	~~i. Mixed funding: restore pre-2012 statutory language~~	Statutory
	ii. Indirect cost pools are considered privately funded	
	iii. Treatment of IRAD versus SFRAD for IP rights determinations. 1. IRAD Risk correct for limited/restricted rights	
	iv. Funding test for rights: is it the correct test or is there a less complex alternative?	
	v. Commercial items vs noncommercial items	Regulatory
	b. Rights in relation to needs.	
	i. Commercial software terms versus Government-unique requirements.	Regulatory
	ii. Authorized release and use of limited rights TD (two different points).	Statutory/Regulatory
	iii. Balance need for rights in IP versus need for competition.	Regulatory
	iv. Are existing rights sufficient for depot, or is there a need for depot-specific, service specific, and program specific licenses.	Statutory/Regulatory
5. Implementation concerns.		
	a. Software versus technical data.	Statutory
	b. Need to recognize differences between technical data and computer software versus need for simplified contracting.	Regulatory
	c. Development versus adaptation.	Regulatory
	d. Form, fit & function (vs. segregation/reintegration or interface) technical data; software documentation versus FFF.	
	e. OMIT versus detailed manufacturing and process data (DMPD).	Statutory
	f. Rigid IP requirements versus need for flexible arrangements.	Regulatory
	g. Poor DID alignment with statutory/regulatory categories (FFF, OMIT, etc.).	Regulatory
	h. 10 U.S.C. 2321 protections versus complexity too high to get meaningful case law. (Link to source of funding alternatives)	Statutory
	i. Embedded software (the object code) versus source code (human-readable) and software design documentation (the data used to produce the object code).	Statutory
	j. Mandatory flow-down (commercial subs and suppliers).	Regulatory

	k. Segregation "at the clause level"—applying non-commercial clauses to commercial TD/CS.	Regulatory
6. Compliance/Administrative concerns.		
	a. How to keep CDRL deliverable up-to-date.	Regulatory
	b. Small Business Innovation Research (SBIR) – flow down to suppliers; inability to share with primes; how evaluated.	Regulatory
	c. Lack of trained personnel (e.g. IP strategy; draft SNLs; DFARS 227.7103-1; IP valuation; use of CDRLs related to data)	Statutory
	d. Data assertion list (7017) – burden on contractor to prepare/Government to receive versus benefit to Government; confusion over lists lead to contract delays.	Regulatory
7. Data Acquisition concerns.		
	a. Deferred ordering period: 6 years (rather than perpetual).	Statutory
	b. Time limits on [priced] contract options – generally 5 years, extendable to 10?	Regulatory
	c. Deferred Ordering Part 1: data "generated ~~or utilized~~" under the contract.	Statutory
	d. Deferred Ordering Part 2: all interface or major systems interface data may be ordered regardless of USG development funding.	Statutory
	e. Failure to define and order CDRLs/reliance on deferred ordering and DAL to obtain data (Already covered, possibly repetitive).	Regulatory
	f. Deferred delivery versus escrow.	Regulatory
8. Modular Open Systems Architectures (MOSA) concerns.		
	a. GPR in MSI even if DEPE and MSI developed with mixed funding.	Statutory
	b. GPR in interfaces developed with mixed funding.	Statutory
	c. Open interfaces versus preference for industry standards; standards maintenance.	Regulatory
9. Section 809 Panel Recommended Items		
Provide issue and why should be looking at it	a. Poor alignment between 10 U.S.C. 2320 and other markings (e.g., distribution statements), clauses (DFARS 252.204-7000), and contract attachments (DIDs; DAL).	Regulatory
	b. Complexity of the IP scheme versus ability of commercial and small businesses to comply (SEC 809)	Regulatory
	c. Synchronization of depot policies with data rights provisions	Regulatory